

New law enacts the Residential Mortgage Lending Act which provides for the licensure and regulation of residential mortgage brokers and lenders as follows:

- (1) Provides for legislative purpose.
- (2) Defines "board", "commissioner", "consumer", "mortgage broker", "mortgage lender", "originator", "person", "principal shareholder", "residential loan transaction", "residential mortgage lender", "residential mortgage lending activity", and "residential mortgage loan".
- (3) Prohibits any person from engaging in a residential mortgage activity without complying with the Chapter.
- (4) Allows the commissioner of the office of financial institutions to promulgate rules and regulations.
- (5) Requires a license beginning January 1, 2000, in order to engage in any residential mortgage lending activity. Allows any person engaged in residential mortgage lending activities on January 1, 1999, to continue, but requires such person to have applied for a license by March 1, 2000, and requires that the license be obtained by July 1, 2000. Allows any mortgage broker license in effect on the effective date of the Act to remain in effect and requires renewal of such license after January 1, 2000.
- (6) Exempts credit unions from the Chapter. Exempts the following from the licensing and certification provisions:
 - (a) Banks, savings banks, and savings and loans.
 - (b) Attorneys when not actively engaged in the business of making or brokering residential mortgage loans and residential mortgage lending activity that is incidental to providing legal services.
 - (c) Any nonprofit corporation with 501(C) status making residential mortgage loans to promote home ownership for the disadvantaged.
 - (d) Any agency of the federal, state, or municipal government, or any quasi governmental agency making residential mortgage loans.
 - (e) Persons acting as a fiduciary with respect to any employee pension benefit plan qualified under the IRS code who makes residential mortgage loans to plan participants from plan assets.
 - (f) Any real estate investment trust.
 - (g) Persons acting in a fiduciary capacity conferred by a court.
 - (h) Any small business loan investment company.
 - (i) Any mortgagee who is a former owner of the property.
 - (j) Persons who contract for no more than four residential loan transactions over a calendar year, or their originators.
 - (k) Insurance companies or non-resident insurance agent or agency if their primary business is not that of a mortgage lender, broker, or originator.
- (7) Exempts the following from the licensure provisions of the Chapter, however requires the filing of a registration statement:
 - (a) Employers and their employees, and subsidiaries and affiliates, subject to licensing, supervision or auditing by the Federal

National Mortgage Association, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development, or the Government National Mortgage Association as an approved seller, servicer, or issuer, or who has satisfied the Veterans Administration requirements to qualify for automatic authority.

- (b) Licensed lenders under the laws of any state, the U.S., or the District of Columbia.
 - (c) Any insurance company.
 - (d) Any private investor who makes or invests in residential mortgage loans through persons who are licensed.
- (8) Requires any person exempt from licensure to engage in residential mortgage lending activity only through a person who is licensed.
- (9) Requires persons who are exempt to file, beginning January 1, 2000, with the commissioner a registration statement which includes certain information prior to engaging in any residential mortgage lending activity. Requires the payment of a fee not to exceed \$400. Requires a registration renewal application to be filed on or before January 1 of each year accompanied by a renewal fee of \$300. Allows for a late fee and requires notification to the commissioner of any changes in the statement during the year. Prohibits the imposing of any registration fee or renewal fee to exempted lender licensed by the commissioner.
- (10) Requires application for licensure of any mortgage broker, mortgage lender, and originator containing certain information to be made to the commissioner. Requires evidence of financial responsibility and solvency in certain required forms. Allows an applicant with multiple locations to be covered by a single license. Provides for certain enumerated fees in amounts to be determined by and payable to the commissioner.
- (11) Requires annual license renewal applications to be filed on or before January 1 of each year accompanied by the appropriate fee.
- (12) Requires the commissioner to grant, deny, or restrict a license. Allows an applicant to request a hearing on the question of his qualifications in certain instances. Requires beginning July 1, 2000, any person licensed as a mortgage broker, mortgage lender, or originator to have been certified by the board.
- (13) Prohibits a residential mortgage lender from conducting lending activities under any name or at any location other than that stated in its license or annual registration statement. Requires notification to the commissioner of any change of name, location, or additional offices. Requires a \$100 filing fee for change of name. Requires notification to the commissioner upon the closing of any office. Requires notification to the commissioner of changes of employment of originators.
- (14) Prohibits the sale or transfer of any license.
- (15) Prohibits the acquisition or control of a license through the acquisition or control of 50% or more ownership in a licensee without first having obtained a license or filed a registration statement claiming an exemption.
- (16) Requires originators to be employed by licensees. Requires mortgage brokers to only broker residential mortgage loans to licensees or

mortgage lenders exempt under the Chapter.

- (17) Requires licensees to maintain books, records, and accounts of residential mortgage lending activities as the commissioner may reasonably require. Allows the commissioner to examine such documentation. Allows the commissioner to assess an examination fee not to exceed \$400 per location examined.
- (18) Provides procedures for the handling of complaints pertaining to the residential mortgage activities of exempted persons.
- (19) Allows the commissioner, after notice and an opportunity to be heard, to suspend or revoke the license of any residential mortgage lender or originator who violates the provisions of the Chapter or commits certain enumerated acts. Allows the commissioner, after notice and an opportunity to be heard, to revoke the exemption from licensure for any person who commits certain acts. Allows the commissioner to impose a fine or penalty not to exceed \$1000.
- (20) Requires civil penalties received by the commissioner to be placed in a Louisiana Consumer Credit Education Fund to be used to finance education programs for consumers and lenders concerning the provisions of the consumer credit and mortgage lending laws and for reimbursement to the office of financial institutions of its costs incurred in enforcing the Chapter.
- (21) Allows the commissioner to report egregious violations to the attorney general or the district attorney of the appropriate parish who may institute procedures to enjoin the violation and enforce penalties.
- (22) Creates the Residential Mortgage Lending Board composed of 5 members - 4 appointed by the commissioner from a list of nominees submitted by the Louisiana Mortgage Lenders Association and the commissioner or his designee. Requires that at least one of the appointed members must be mortgage brokers and at least one of the appointed members must be mortgage lenders. Provides for member licensure, terms, filing of vacancies, domicile, election of officers, quorum requirements, members compensation, and meetings. The board acts as an advisor and consultant to the commissioner.
- (23) Requires the commissioner to examine each applicant for licensure to certify that the applicant has satisfied the continuing professional education requirements. Requires the commissioner prescribe and adopt standards and policies to give credit for participation in continuing professional education programs. Allows the board to recommend rules and regulations to the commissioner.
- (24) Allows any person who has been actively engaged in the residential mortgage loan business for at least three consecutive years within the previous five years on January 1, 2000, to apply for certification without the need for a written exam or continuing education requirements. Requires the appropriate application fee.
- (25) Requires the commission, beginning July 1, 2000, to certify that all applicants have completed 10 hours of professional education. Requires, beginning July 1, 2001, the passage of a written examination administered by the commissioner. Allows the commissioner to collect an examination fee from the organization administering the examination.

- (26) Requires all persons, beginning July 1, 2001, applying for reinstatement or renewal to have completed 10 hours of professional education in order to renew their license on January 1 the following year. Requires submission of proof of completion of continuing professional requirements as part of the license renewal application. Allows the board to collect a course evaluation fee from the organization sponsoring the continuing education program. Allows the commissioner to collect a course recognition fee from the person participating in a continuing education program not recognized by the commissioner to determine if the course will satisfy guidelines.
- (27) Requires all nonresidents, beginning July 1, 2000, to demonstrate that they have completed the educational requirements of the Chapter or are entitled to certification by reciprocity. Requires nonresidents applications to be accompanied by the appropriate fees. Allows, beginning in 2001, any person receiving certification by reciprocity or examination on July 1 or later, not be required to have the 10 hours of continuing professional education required for license renewal until December 31 of the following year. Allows the commissioner to collect reciprocity analysis fees from nonresidents.
- (28) Prohibits any person from holding himself out as being or advertising as a certified mortgage broker, lender, or originator unless such person has completed the educational requirements.
- (29) Provides that the rates, fees, charges, and disclosures applicable to residential mortgage loans that are simple interest in the principal amount of \$10,000 or more are governed by the Act. Provides that the Louisiana Consumer Credit Law governs disclosures applicable to any residential loans that have precomputed interest or that have an initial principal amount of less than \$10,000.
- (30) Allows any debtor who has contracted for a federally related mortgage loan to agree to pay interest in excess of the maximum authorized rate of conventional interest. Prohibits such debtor from asserting a claim or defense of usury. Allows any debtor who has contracted for a residential mortgage other than a federally related mortgage to agree to pay interest in an amount not to exceed the greater of 21%, or 15 percentage points above the federal discount rate.
- (31) Provides that the general prohibitions against interest upon accrued interest do not apply to residential mortgage loans governed by the Act.
- (32) Allows the consumer to prepay in full the unpaid balance of his residential mortgage loan at any time, in the absence of federal law prohibiting prepayment. Allows a mortgage lender to contract for prepayment penalties in certain amounts.
- (33) Provides that agreements to compensate mortgage brokers through yield spread premiums for goods, facilities, and services actually provided in connection with a residential mortgage loan transaction are valid and enforceable. Prohibits any mortgage broker to assess or contract for any type of fee in advance except for expense deposits for procurement of a loan. Prohibits an advance expense deposit from exceeding the good faith estimate of the costs for the evaluation of the loan application. Requires the refund of any advance expense deposit left in the account at the time of the closing of the loan.
- (34) Specifies what fees, charges, costs, and expenses are not considered interest in a residential mortgage loan in the specified amounts. Allows

the parties to a residential mortgage loan transaction to agree to other charges if the agreement is provided in writing in either the note or the mortgage securing the note.

- (35) Requires all residential mortgage loan brokerage contracts to be in writing and signed by the parties. Requires the mortgage broker to provide the prospective borrower with a written "Mortgage Loan Origination Agreement" no later than three days after signing the loan application. Requires the disclosures to contain certain information. Provides that failure of the broker to provide the disclosures does not invalidate the loan, but subjects the broker to a refund of any brokerage fees obtained in connection with the loan.

Effective upon signature of governor (July 9, 1999).

(Adds R.S. 6:1081-1098)